

BILLY WAYNE LEWIS                               §  
v.   §          CIVIL ACTION NO. 6:14cv848  
WILLIAM STEPHENS                              §

clarification, stating that he had no objection to the dismissal of the civil case but he did object to the dismissal of his habeas petition.

The records of the case show that Lewis filed a habeas corpus petition raising several claims, one of which concerned the conditions of his confinement. The Fifth Circuit has held that claims regarding the conditions of confinement must be brought in a civil rights lawsuit rather than a habeas corpus petition. The magistrate judge therefore recommended that the one claim challenging the conditions of confinement be severed from the habeas petition and put into a separate civil rights lawsuit, the proper vehicle for bringing such a claim.

Lewis then filed a motion asking to “remove” this complaint and stating that it was moot in any event. The magistrate judge treated this as a request to voluntarily dismiss the civil rights lawsuit and recommended that it be granted. The magistrate judge specified that dismissing the civil rights case would not affect Lewis’ pending habeas corpus petition. Lewis’ response expressed no objections to the dismissal of the civil rights case.


The Court has reviewed the pleadings and the report of the magistrate judge. Upon such review, the Court has concluded that the magistrate judge’s report is correct. It is accordingly

**ORDERED** that the report of the magistrate judge (docket no. 4) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** at the request of the Plaintiff. The dismissal of this civil action shall have no effect upon the Plaintiff’s habeas petition, civil action no. 6:14cv835. Finally, it is

**ORDERED** that any and all motions which may be pending in this action are hereby **DENIED**.

**SIGNED this 12th day of February, 2015.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE